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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

GLEN BURNELL MCGHIE, P.T.
421 Rosemont Drive
Santa Clara, CA 95051

Physical Therapy License No. PT 12567

Respondent.

Case No. 1D-2002-63198

OAH No. N2002100828

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On December 21, 1984, the Physical Therapy Board of California issued Physical Therapy License Number PT 12567 to GLEN BURNELL MCGHIE, P.T. (Respondent). This license expired on May 31, 2002, and has not been renewed. There is no history of prior disciplinary action against this license.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board) , Department of Consumer Affairs under the authority of the below mentioned statutes and regulations.¹

4. Section 2614 provides, *inter alia*, that the Board is responsible for the administration and hearing of disciplinary actions involving enforcement of the Physical Therapy Practice Act (§ 2600, et seq.) and the carrying out of disciplinary action.

5. Sections 2609, 2614, and 2660, together, provide that the Board shall take disciplinary action against the holder of a physical therapy license who is guilty of unprofessional conduct. Section 2660 further provides that a licensee who is found guilty under the Physical Therapy Practice Act or the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, or placed on probation. Specific sections of the Business and Professions Code further provide as follows:

A. Section 2660 provides, in part, that the Board may take disciplinary action against a license for:

- (d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist.
The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

....

- (i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical

1. All statutory references are to the Business and Professions Code (Code) unless otherwise indicated.

Practice Act.

....

- (1) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist.

B. Section 2236 provides that the conviction of any offense substantially related to the qualifications, functions or duties of a physician and surgeon constitutes unprofessional conduct.

C. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction includes a conviction following a plea of nolo contendere.

D. Section 2661 provides that a conviction includes a conviction following a plea of nolo contendere of any felony or of any offense substantially related to the qualifications, functions, or duties of a physical therapist.

California Code of Regulations

6. Title 16, California Code of Regulations, section 1399.20 provides that a crime is substantially related to the qualifications, functions, or duties of a person holding a physical therapy license if “to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license...in a manner consistent with the public health, safety, or welfare.”

CAUSE FOR DISCIPLINE

(Conviction of Crime)

7. Respondent is subject to disciplinary action under sections 490 (conviction of a crime) and 2260(d) (conviction of a crime), 2260(i) (violation of any provision of the Medical Practice Act), and 2260(l) (acts of moral turpitude) in that he has been convicted of a felony violation of Penal Code section 288(c)(1) (lewd or lascivious act on a child age fourteen

1 or fifteen.) The circumstances are as follows:

2 8. On September 24, 2002, Mr. McGhie was convicted of one felony
3 violation of Penal Code section 288(c)(1) (lewd or lascivious act on a child age fourteen or
4 fifteen) in Santa Clara Superior Court, Case Number CC247783.

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Physical Therapy Board of California issue a
8 decision:

9 1. Revoking or suspending Physical Therapy License Number PT 12567,
10 issued to GLEN BURNELL MCGHIE, P.T.;

11 2. Ordering GLEN BURNELL MCGHIE, P.T. to pay the Physical Therapy
12 Board of California the reasonable costs of the investigation and enforcement of this case,
13 pursuant to Business and Professions Code section 2661.5;

14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: 01/14/2003

16 Original Signed By:
17 STEVEN K. HARTZELL
18 Executive Officer
19 Physical Therapy Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant
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